

REMARKS

Applicants respectfully traverse and request reconsideration.

Applicants wish to thank the Examiner for the notice that claims 5-8 and 14-24 would be allowable if the section 112 rejection is overcome.

Claims 1-24 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Claims 1, 5, 9, 14 and 20 have been rejected for the use of the word "may". To the extent this term appears in the claim, the claims have been amended although Applicants respectfully submit that the claims were in proper form. Claims have also been rejected for using the words such as "controllable", "capable of" and "operable". Applicants respectfully submit that the use of these words is completely proper since it requires that the apparatus, system or other operation is configured to perform an operation. Terms such as "capable of" and "operable" are used as known in the art to positively claim structure or operation since an apparatus, for example, is just as patentable if it is sitting in a box and configured to perform an operation prior to power being applied as it is when it is actually operating. Applicants respectfully request that the rejection be withdrawn.

Claims 1-4, 9 and 11-13 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 7,092,743 (Vegh). The Vegh reference is directed to a completely different system from that claimed. The Vegh reference is directed to a method and apparatus to reply to a call wherein the user of the mobile station configures the mobile station to reply to an incoming call based on preferences set by the user of the receiving mobile station. In contrast, Applicants claim an apparatus, method and system wherein there is a sender controllable modality, for example, so that a sender controls the user's device. Among other advantages for example, if a user were to set a particular modality for an incoming call, a sender, such as the user's boss, can send a priority message to the receiving device to instead control the user's device. As such, a sender device

controls the operation of a user's device using priority commands that include a modality alert command. Vegh teaches an opposite approach to that claimed.

For example, as to claims 1, 5, 9 and 20, the office action cites column 2, line 65 to column 3, line 8 as allegedly teaching an apparatus for sender controllable modalities. However, the cited portion does not refer to a sender device, but instead refers to the receiving device, namely the mobile station. As such, the cited portion does not teach the claimed subject matter. Moreover, the office action cites to column 4, line 62 to column 5, line 6 as allegedly teaching a transmitter coupled to a priority command generator and the communication command generator of an apparatus for sending controllable modalities that sends a priority command and a communication command that are transmitted to a recipient device. However, this cited portion refers to a different device in Vegh, namely the base station. The office action appears to be confusing the operation of the base station operations of Vegh with the operations of the mobile station 200. This inconsistency is improper and as such, the claim is in condition for allowance.

Also, the office action alleges that the transmitter 220 of the mobile station is the claimed transmitter. However, the references in Vegh to priority commands or modality alerts all refer to settings controlled by a user of the mobile station wherein the user of the mobile station programs the mobile station to act in a specific way based on an incoming call and therefore may reply to calls received from a high importance caller if the user sets up the mobile station to identify an incoming call as an important caller. (See column 5, lines 1-5). Vegh is similar to the prior art described, for example, in Applicants' Background of the Invention section. The Vegh system mobile device has the same problems as other prior art systems in that it is the user device that is being programmed by the user in a way to respond to an incoming call in a certain manner. However, there is no sender device in Vegh that provides high priority notification commands to externally control the mobile station. To the contrary, it is the user of the mobile station in Vegh

that programs a mobile station to respond to incoming calls in different ways. In contrast, the claims are directed to a sender device that sends commands that are received by a recipient device and the sender commands control the modality that will be utilized on the recipient device. In addition, the mobile station of Vegh does not transmit priority commands. The cited portion, namely column 3, actually refers to where the user configures the mobile station to reply to an incoming call with a message. (See column 3, lines 15-20). Other differences will be recognized by those of ordinary skill in the art. Since the claimed subject matter is not taught in the reference, Applicants respectfully submit that the claims are in condition for allowance.

Also as to claim 9, there is no transmitting of a communication command and a priority command to a recipient device. The office action again cites column 3, lines 42-50 and lines 55-58 and other portions. These cited portions however do not teach the claimed subject matter. In each cited instance the user controls setting of the mobile device. There is no transmission of a communication command and a priority command to a recipient device or other steps as claimed. The cited portion referring to the claimed transmitting, namely column 3, lines 42-50, actually does not refer to transmitting information to a recipient device, but to the contrary, refers to the operation of a computer 250 within the mobile station. The claim is also in condition for allowance for at least this reason as well.

The dependent claims also add additional novel and non-obvious subject matter.

Accordingly, Applicants respectfully submit that the claims are in condition for allowance and that a timely Notice of Allowance be issued in this case. The Examiner is invited to contact the below-listed attorney if the Examiner believes that a telephone conference will advance the prosecution of this application.

Respectfully submitted,

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By: *Ch. J. Reckamp*
Christopher J. Reckamp
Reg. No. 34,414

Vedder, Price, Kaufman & Kammholz, P.C.
222 North LaSalle
Chicago, Illinois 60601-1003
312/609-7500
312/609-5005 Facsimile